IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12197 of 2003

Between:

S.Baba Fakruddin S/o S.Mahaboob Sab
R/o H.No.5/260.,Telupula post and Mandal Ananthapur District.

... PETITIONER

AND

1 The Commissioner for Co-operation., Govt.of A.P.,Hyderabad.
2 The District Co-operative Officer., Ananthapur.
3 The Deputy Registrar of Co-operative Society Hindupur.,Ananthapur.
4 The President, Primary Agricultural Co-op Society.,Hindupur., Ananthapur

District, Talupula Post and Mandal, Ananthapur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings dated 30-5-2003 issued by the 4th respondent in terminating the services of the petitioner arbitrary, illegal, null and void and apart from the letter and spirit of Art.14 and 16 and 21 of the Constitution of India consequently to quash the Memo dated 30-5-2003 issued by the Hon'ble Court.

Counsel for the Petitioner: MR.G.ALLABAKASH

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following order:

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ORDER:

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The service of the petitioner, who is appointed on compassionate grounds as an Attender of the fourth respondent-primary agricultural cooperative society, is sought to be terminated by issuing one month notice on the ground that his appointment made after 1995 is not valid as per the provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act').

As long as the appointment is in conformity with Section 116-c of the Act r/w rules 28(4) (b) and 36(B) of the APCS Rules, it cannot be said that merely because the appointment was made after 1995 it is an invalid appointment and contrary to the provisions of the Act.

Perusal of the termination notice dated 30.05.2003 goes to show that the Deputy Registrar of the Cooperative Societies vide his proceedings RC.No.606/2000–B dated 24.03.2003 directed that the appointment made after 1995 is invalid and therefore, pursuant to the said direction only the services of the petitioner is sought to be terminated.

The society is bound to obey the lawful orders of the Cooperative Officer, which are in accordance with Section 116-C, and other relevant provisions of the Act. Merely because a

direction was issued to dispense with the services of the petitioner on the ground that his appointment made after 1995 is illegal cannot be sustained.

Accordingly, the impugned order is set aside keeping it open for the fourth respondent society to take appropriate action for termination/removal of services of the petitioner, if he is not appointed against he approved vacancy as approved under Section 116-C of the Act r/w Rules 28(4) (b) and 36(B) of the Andhra Pradesh Cooperative Soceity Rules.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

November 4, 2004

Dsk

To

1 The Commissioner for Co-operation., Govt.of A.P.,Hyderabad.

2 The District Co-operative Officer., Ananthapur.

3 The Deputy Registrar of Co-operative Society, Hindupur,

Ananthapur.

4 Two CCs to GP For Cooperation, High Court Buildings, Hyderabad

(OUT)

5 Two CD Copies.